

**BERNALILLO COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE #213, BERNALILLO COUNTY CODE, APPENDIX A, ADDING DEFINITIONS, UPDATING PERMISSIVE AND CONDITIONAL USES IN THE R-2, O-1, C-N, C-1, C-2 AND C-LI ZONES, AND ADDING LANGUAGE REGARDING LOW-WATER USE LANDSCAPING.**

SECTION 1. The Zoning Code is hereby amended to include the following changes.

Section 5. Definitions.

Day Spa. A commercial establishment, other than an adult amusement establishment, that offers beauty, health or therapeutic treatments that can be started and completed in a single session, either by the hour or by the day. Overnight accommodations are not provided.

Planning Commission. The Bernalillo County Planning Commission ~~of Adjustment~~.

Townhouse. One of a group of two to eight attached dwelling units divided from each other by common walls, each having a separate entrance leading directly to the outdoors at ground level, and each having at least one-fourth of its heated and unheated floor area approximately at grade.

Section 10. R-2 Apartment Zone.

B.2 Permissive Uses

d. Townhouses

D. Area Regulations:

1. Minimum Lot Area and Lot Width. For developments of other than townhouses ~~The~~ minimum lot area shall be 8,000 square feet and the minimum lot width shall be 60 feet, provided community water and sewer facilities are made available. For townhouses, the minimum lot area shall be 4,000 square feet and the minimum lot width shall be 24 feet, provided community water and sewer facilities are available. If community utilities are not available, then the minimum lot size shall be three-quarters [of an] acre per dwelling unit

2. Front Yard:

(a) There shall be a front yard having a depth of not less than 20 feet, except as provided in the Supplementary Height and Area Regulations Section of this ordinance, or for townhouses, which shall have a minimum front yard depth of ten feet, provided that the length of any driveway shall not be less than 20 feet.

(b) Where lots have double frontage, the required front yard shall be provided on both streets.

3. Side Yard:

(a) Except as hereinafter provided in the following paragraphs and in the Supplementary Height and Area Regulation Section of this ordinance, there shall be a side yard on both sides of a building

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the aggregate width of which shall be not less than 14 feet;  
provided, however, that neither side yard shall be less than six  
feet in width.

(b) Wherever a lot of record, at the effective date of this ordinance,  
has a width of less than 60 feet, each side yard may be reduced to  
a width of not less than ten percent of the width of the lot, but in  
no instance shall it be less than three feet.

(c) There is no required side-yard setback from internal lot lines for  
townhouses; there shall be a five-foot setback from external lot  
lines of corner townhouse lots.

4. Rear Yard. Except as hereinafter provided in the Supplementary Height  
and Area Regulations Section of this ordinance, there shall be a rear yard  
having a depth of not less than 15 feet.

5. Density. Every building hereafter erected or structurally altered for  
dwelling purposes shall comply with the following density requirements:

a. A floor area ratio of 0.5 is permitted provided community water  
and sewer facilities are made available.

b. If community utilities are not available, then the minimum lot area  
shall be three-quarters [of an] acre per dwelling unit.

Section 12. O-1 Office and Institutional Zone.

B.2. Permissive Uses:

a. Any permissive use as allowed and designated in the in the R-1 Single-Family  
Residential Zone and the following:

(6) Day Spa [renumber additional sections accordingly]

(89) Institution, including library, museum, nursing or rest home, ~~school~~,  
day care center, and family day care center.

B.3.a. Conditional Uses

(7) School and related facilities

Section 13. C-N Neighborhood Commercial Zone

B.3.a. Conditional Uses:

The following uses may be permitted if approved by the Zoning Administrator  
in accordance with the procedures and under the conditions set forth in Section  
24 of this Ordinance.

(1) Amateur Radio Antenna/Tower 65 to 100 feet as measured from grade.

~~(2) Bar or lounge, liquor store.~~ (renumber following sections accordingly)

~~(49 18)~~ Mixed use development with residential and nonresidential uses  
combined in the same building or buildings, ~~where the owner or tenant is both~~  
~~living and working on the premises.~~ The nonresidential uses are limited to  
those allowed as permissive or conditional in the C-1 zone, plus incidental  
activities such as the creation of arts and craft items for resale or similar  
activities.

Section 14. C-1 Neighborhood Commercial Zone.

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B.2. Permissive Uses:

a. Any permissive use allowed and as regulated in the O-1 Office and Institutional Zone and the following:

(1) Automobile, motorcycle, bicycle, motorized bicycle (moped), all terrain vehicle, and small engine repairing, including emissions testing, but no bodywork. Repairing shall be done within a completely enclosed building at least 20 feet from any residential zone. Storage of not more than five automobiles awaiting repair shall be permitted provided that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least six feet high.

B.3.a. Conditional Uses

~~(2) Hospital for animals, and kennels, provided it is in a completely enclosed building.~~ School and related facilities

(9) Mixed-use development with residential and nonresidential uses combined in the same building or buildings, ~~where the owner or tenant is both living and working on the premises.~~ The nonresidential uses are limited to those allowed as permissive or conditional in the C-1 zone, plus incidental activities such as the creation of arts and craft items for resale or similar activities.

(10) Apartments and townhouses as regulated in the R-2 zone.

Section 15. C-2 Community Commercial Zone.

B.2 Permissive Uses

a.(6)(g) Lumberyard and building material sales (retail) provided all storage is within a building or enclosed by a six-foot solid wall or fence on all sides, and provided further that products, items or materials stored on the site are not stacked to a height above the height of the required wall or fence.

B.3 Conditional Uses

a. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set forth in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and community.

(1) Adult amusement establishment, including but not limited to, adult bookstore, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, and adult body oil or lotion demonstration parlors; provided:

(a) The use is located at least 2,000 feet from another adult amusement establishment, adult bookstore, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, and adult body oil or lotion demonstration parlors; and

(b) The use is located at least 2,000 feet from the nearest conforming residential use, or from any church or school.

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(c) Each of the adult uses set forth above shall be considered a separate use and the approval of one adult use shall not imply the approval ~~an~~ of any other adult use.

~~(5) One mobile home for a watchman or caretaker on the same lot or parcel of land with a conforming or nonconforming use, provided such mobile home is not used as a commercial or office unit, and, further, provided that no other residential dwelling unit is located on the same lot or parcel. [renumber additional sections accordingly]~~

Section 15.5. C-LI Commercial/Light Industrial Zone

B. Use Regulations:

1. Prohibited Uses. The following uses are prohibited in this zone: Church and any residential use, except that each individual ~~industrial~~ use may provide accommodations for one security resident employed on the premises, provided that such accommodations are not used as rental property. However, mixed use development may be permitted as noted under Conditional Uses in this section.

3. Conditional Uses. The following uses may be permitted, if approved by the Zoning Administrator, in accordance with the procedures and under the conditions set out in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and community.

b. Mixed use development with residential and nonresidential uses combined in the same building or buildings, ~~where the owner or tenant is both living and working on the premises.~~ The nonresidential uses are limited to those allowed as permissive or conditional in the C-LI zone, plus incidental activities.

Section 19. Landscaping and buffer landscaping regulations.

D. The landscaped buffer between residential and office, commercial, industrial, and multifamily residential uses shall consist primarily of trees 1 1/2-inch minimum caliper, measured at two feet above ground level, and/or shrubs, five gallon minimum size. The trees or shrubs shall form a largely opaque screen. However within a clear sight triangle, the trees or shrubs shall be maintained to a height of no higher than three feet. Planting of low-water-use varieties of vegetation and using rainwater collection and distribution systems to meet the intent of the buffering requirements are strongly encouraged.

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Section 21. Off-Street Parking, Loading and Unloading Regulations

D. Location and Improvement of Parking Areas:

1. All parking spaces required herein shall be located on the same site with the building or use served.
2. All open parking areas in R-2, O-1, C-N, C-21, C-42, C-LI, M-1, and M-2 zones shall be surfaced with a durable surface consisting of concrete or bituminous material.
3. Parking spaces shall be appropriately marked to indicate the location of the space.

SECTION 2. Severability Clause. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the ordinance. The Commission hereby declares that it would have passed this ordinance and each division, section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or invalid.

SECTION 3. Effective Date. This ordinance shall take effect thirty days after final adoption by the Bernalillo County Board of County Commissioners.

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BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF  
BERNALILLO, NEW MEXICO this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Alan B. Armijo, Chair

\_\_\_\_\_  
Teresa L. Córdova, PhD., Vice-Chair

\_\_\_\_\_  
Deanna Archuleta, Member

\_\_\_\_\_  
E. Tim Cummins, Member

\_\_\_\_\_  
Michael Brasher, Member

\_\_\_\_\_  
County Legal

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Mary Herrera, Clerk

Date: \_\_\_\_\_